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12 Attorneys for Defendants
13 G&M GAME CORPORATION; KRAZY
KOYOTE BAR & GRILL; GEORGE D.
14 HEADLEY, JR. & MARCOS ANTHONY
HEADLEY, each individually.

HOWARD
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NEMEROVSKI
CANADY
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& RABKIN
A Professional Corporation

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION
18

19 BROADCAST MUSIC, INC. et al.,

20 Plaintiffs,

21 v.

22 G&M GAME CORPORATION; KRAZY
KOYOTE BAR & GRILL; GEORGE D.
23 HEADLEY, JR. & MARCOS ANTHONY
HEADLEY, each individually,

24 Defendants.
25

No. C07-02453 CRB

Action filed May 8, 2007

26 JOINT CASE MANAGEMENT
27 STATEMENT

28 Date: August 10, 2007
Time: 8:30 a.m.
Place: Courtroom 8, 19th Floor
Judge: Hon. Charles R. Breyer
Trial Date: None set

1 Pursuant to this Court's May 8, 2007 Order, Plaintiffs Broadcast Music, Inc. et al.
2 (collectively, "Plaintiffs") and Defendants G&M Game Corporation; Krazy Koyote Bar &
3 Grill; George D. Headley, Jr. & Marcos Anthony Headley, each individually (collectively,
4 "Defendants"), hereby submit this Joint Case Management Statement.

5 1. Jurisdiction and Service.

6 The Court has jurisdiction pursuant to 28 U.S.C. §1338(a), and venue is proper in this
7 Court because the actions at issue in the lawsuit arose in Santa Clara County in this district.
8 All parties have been served.

9 2. Facts.

10 Plaintiffs contend that on May 4, 2006 and August 19, 2006 Defendants publicly
11 performed or caused to be performed music at Krazy Koyote Bar & Grill without a license or
12 permission to do so, thereby infringing on the rights Plaintiffs hold in 9 musical
13 compositions. Plaintiffs further contend that Defendants were informed by telephone call
14 and letters, over a period of almost 3 years, of the need and the opportunity to obtain a
15 license to perform music publicly at Krazy Koyote Bar & Grill, and failed to do so. Plaintiffs
16 thereby contend that Defendants' copyright infringement was willful.

17 3. Legal Issues.

18 Plaintiffs contend that there is no legal issue as to Defendants' liability for copyright
19 infringement or as to their willfulness in such copyright infringement. Defendants believe
20 there are legal issues.

21 4. Motions.

22 Plaintiffs intend to move for summary judgment against the Defendants.

23 5. Amendment of Pleadings.

24 Plaintiffs do not see a need to amend the pleadings at this time.

25 6. Disclosures.

26 On August 3, 2007, Plaintiffs served Initial Disclosures on Defendants.

27 7. Discovery.

28 Counsel for the parties have not met and conferred regarding the issues Federal Rule of

1 Civil Procedure 26(f) notwithstanding Plaintiffs' efforts to do so.

2 Plaintiffs believe there is no reason to increase or decrease the limitations imposed by
3 the Federal Rules of Civil Procedure or the Local Rules with respect to discovery.

4 Plaintiffs anticipate that discovery will include interrogatories, document requests and
5 requests for admission, and that this discovery will focus on the facts and circumstances
6 giving rise to each party's claims against the other, as outlined in Section 2 above. The
7 parties do not currently anticipate taking any depositions.

8 8. Class Actions.

9 Not applicable.

10 9. Related Cases.

11 There are no related cases pending in this Court.

12 10. Relief.

13 Plaintiffs seek an injunction against Defendants' further public performance of
14 Plaintiff's musical works without a license, pursuant to 17 U.S.C. §502; statutory damages
15 in the amount of \$3,000 per each of 9 infringements, for a total of \$27,000, pursuant to 17
16 U.S.C. §504(c); and their costs, including reasonable attorneys fees, pursuant to 17 U.S.C.
17 §505.

18 11. Settlement and ADR.

19 Pursuant to Local Rule 16-8 and ADR L.R. 3-5(b), Plaintiffs filed an ADR
20 Certification on July 20, 2007. Defendant submits that mediation may be appropriate.

21 12. Consent to Magistrate Judge for All Purposes.

22 Plaintiffs do not consent to have a magistrate judge conduct all further proceedings in
23 this matter.

24 13. Other References.

25 The parties do not believe this case is suitable for other references.

26 14. Narrowing Of Issues.

27 Plaintiffs believe the issue of Defendants' liability for and willfulness in copyright
28 infringement can be resolved on a motion for summary judgment. *See* Section 4, "Motions,"

1 *supra.*

2 15. Expedited Schedule.

3 Plaintiffs are amenable to an expedited schedule with streamlined procedures.

4 16. Scheduling.

5 Plaintiffs believe the earliest reasonable dates for discovery cutoff, hearing dispositive
6 motions, pretrial conference, and trial are as follows:

7 Fact and expert discovery cutoff: November 30, 2007

8 Dispositive motions heard by: December 31, 2007

9 Pretrial conference: January 31, 2008

10 Trial: February 29, 2008

11 17. Trial.

12 Plaintiff does not request a jury trial.

13 Defendant may request a jury trial.

14 It does not appear feasible or desirable to bifurcate issues for trial. The anticipated
15 length of the trial is one (1) day. It may be possible to reduce the length of the trial by
16 stipulation, use of summaries or statements, or other expedited means of presenting
17 evidence, and the parties are open to this possibility.

18 18. Disclosure of Non-party Interested Entities or Persons. Plaintiffs made this
19 disclosure in their Complaint for Copyright Infringement, filed May 8, 2007.

20 19. Defendant wishes to continue the Case Management Conference. Plaintiff has no
21 objection.

1 DATED: August 3, 2007.

2 Respectfully,

3 KAREN S. FRANK
4 SARAH M. KING
5 HOWARD RICE NEMEROVSKI CANADY
6 FALK & RABKIN
7 A Professional Corporation

8 By: _____/s/
9 KAREN S. FRANK

10 Attorneys for Plaintiffs BROADCAST MUSIC,
11 INC. et al.

12 DATED: August 3, 2007.

13 Respectfully,

14 By: _____/s/
15 JEFFREY E. ELLIOTT

16 Attorney for Defendants G&M GAME
17 CORPORATION; KRAZY KOYOTE BAR &
18 GRILL; GEORGE D. HEADLEY, JR. and
19 MARCOS ANTHONY HEADLEY, each
20 individually

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PROOF OF SERVICE BY MAIL

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen (18) years and not a party to the within action; my business address is Three Embarcadero Center, Seventh Floor, San Francisco, California 94111-4024.

I am readily familiar with the practice for collection and processing of documents for mailing with the United States Postal Service of Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, and that practice is that the documents are deposited with the United States Postal Service with postage fully prepaid the same day as the day of collection in the ordinary course of business.

On August 3, 2007, I served the following document(s) described as **JOINT CASE MANAGEMENT STATEMENT** on the persons listed below by placing the document(s) for deposit in the United States Postal Service through the regular mail collection process at the law offices of Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, located at Three Embarcadero Center, Seventh Floor, San Francisco, California, to be served by mail addressed as follows:

G&M Game Corporation
Krazy Koyote Bar & Grill
8337 Church Street
Gilroy, CA 95020

George D. Headley
8337 Church Street
Gilroy, CA 95020

Marcos Anthony Headley
8337 Church Street
Gilroy, CA 95020

Jeffrey E. Elliot, Esq.
28 North First Street, Suite 500
San Jose, CA 95112-2440

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed at San Francisco, California on August 3, 2007.

/s/
Kathryn A. Sakamoto